SUPREME COURT MINUTES
THURSDAY, AUGUST 7, 2003
SAN FRANCISCO, CALIFORNIA

S096831

BARNETT (LEE MAX) ON H.C.
Opinion filed

The order to show cause is discharged.

Opinion by Baxter, J.
--- joined by George, C.J., Werdegar, Chin, Brown, Moreno, JJ., and Pollak, J.*

*Associate Justice of the Court of Appeal, First Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6, of the California Constitution.

S107904
G027919 Fourth Appellate District, Division Three

M. (EMILIANO), IN RE
Opinion filed:

Judgment affirmed in part, reversed in part, and remanded to CA 4/3.

Majority Opinion by Baxter, J.
--- joined by George C.J., Kennard, Werdegar, Chin, Brown & Moreno, JJ.

S109902
B151521 Second Appellate District, Division Seven

M. (EDDIE), IN RE
Opinion filed: Judgment affirmed in full

Majority Opinion by Baxter, J.
--- joined by George, C. J., Kennard, Werdegar, Chin, Brown, and Moreno, JJ.

S117763

EISENBERG v. SHELLEY
Petition for writ of mandate denied.

S117770

FRANKEL v. SHELLEY
Petition for writ of mandate/prohibition denied.

Petitioners seek an original writ of mandate to compel the Secretary of State to omit from the recall ballot measure that is to be submitted to the voters at the October 7, 2003, election, any list of candidates to be voted upon to select a successor to the Governor should a majority of voters vote in favor of recall. Petitioners contend that should a majority vote in favor of recall, the Lieutenant Governor will automatically succeed to the office of Governor, and thus the inclusion of a list of candidates is unauthorized and unnecessary.

We have concluded that petitioners have not demonstrated a sufficient likelihood of success to warrant the issuance of an alternative writ or order to show cause. To support their legal claim, petitioners rely on two provisions of the California Constitution: (1) article V, section 10 ["The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor"], and (2) article II, section 15, subdivision (a) ["An election to determine whether to recall an officer and, *if appropriate*, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signature" (italics added)]. The history of the recall procedure embodied in the California Constitution, however, makes it clear that, as a general matter, when an officer is removed from office by recall and is immediately replaced by the candidate who receives a plurality of votes at the election, no "vacancy" in the office occurs (see Cal. Const., former art. XXIII, § 1, ¶ 6; Elec. Code, §§ 11384, 11385, 11386), and thus article V, section 10, does not apply. Further, the circumstances relating to the origin of the "if appropriate" language in article II, section 15, subdivision (a), make it clear that this language was added simply to recognize that the election of a successor at a recall election

is not appropriate when the subject of the recall election is a justice of the Court of Appeal or Supreme Court. The "if appropriate" clause was added at the same time, and to the same paragraph, as language explicitly providing that there shall not be any candidacy for a potential successor in the case of a recall election for an appellate justice, and was inserted to make the first sentence of the paragraph consistent with this addition. (See Assem. Const. Amend. No. 29 (1973-1974 Reg. Sess.) as amended by Assem., Aug. 6, 1973; thereafter adopted by voters as Cal. Const., former art. XXIII, § 3, at Gen. Elec., Nov. 5, 1974 (now Cal. Const., art. II, § 15).) If an appellate justice is recalled, a successor is appointed by the Governor pursuant to the provisions of article VI, section 16, subdivision (d) of the California Constitution. Nothing in article II, section 15, subdivisions (a) or (c), or in the history of the California constitutional recall procedure as a whole, indicates that it is not appropriate to include a list of potential successor candidates when a recall election involves the office of

Accordingly, the petition is denied.

S117832 BYRNES v. BUSTAMANTE
Petition for writ of mandate/prohibition denied.

S117834 BURTON v. SHELLEY
Petition for writ of mandate/prohibition denied.
(3 orders filed)

(1) Petitioner seeks an original writ of mandate to compel the Secretary of State to place on the ballot for the October 7, 2003 election, as replacement candidates in the event the Governor is recalled, only those persons who have qualified for nomination under Elections Code section 8400. This provision, applicable by its terms to independent candidates who wish to run in a general election though not nominated in a party primary (see *id.*, §§ 8300, 8550, subd. (f)), would require, among other

things, that recall replacement candidates obtain and submit the signatures of registered voters equal to "1 percent of the entire number of registered voters in the state" (*id.*, § 8400). We are advised that this amounts to approximately 153,000 valid signatures.

No provision of law states expressly what number of voter signatures is necessary to nominate a candidate for a position on a recall replacement ballot. Elections Code section 11381, subdivision (a), provides simply that the nomination of candidates to succeed recalled officers shall be governed by the nominating procedures applicable in "regular elections." Under authority of this statute, the Secretary of State has adopted a standard of 65 qualifying signatures, derived from the nomination procedures for party primary elections. (Elec. Code, §§ 8062, subd. (a)(1), 8600, subd. (b).) The Secretary of State advises that this policy has been consistently followed by his two immediate predecessors in recent recall elections.

We have concluded that petitioners have not demonstrated a sufficient likelihood of success to warrant the issuance of an alternative writ or order to show cause, which would delay a duly scheduled recall election. The Secretary of State is the constitutional officer charged with administering California's election laws (Gov. Code, § 12172.5; *Assembly v. Deukmejian* (1982) 30 Cal.3d 682, 650), and his interpretations of those laws are entitled to substantial judicial deference. (See, e.g., *Styne v. Stevens* (2001) 26 Cal.4th 42, 53; *Kelly v. Methodist Hospital of So. California* (2000) 22 Cal.4th 1108, 1118.) That deference is especially great where, as here, the Secretary of State conformed to policies consistently followed by his two predecessors (see *Ramirez v. Yosemite Water Co.* (1999) 20 Cal.4th 785, 801), who represented both major political parties.

The directive of Elections Code section 11381, subdivision (a), is flexible, and the Secretary of State has chosen, from among the available options, a mode of procedure that

serves practicality and avoids constitutional concerns. Once a recall election qualifies and is scheduled, the time for potential replacement candidates to circulate nominating petitions is extremely short—as little as one day and no more than 21 days. (See Cal. Const., art. II, § 15, subd. (a) [election must be scheduled within 60 to 80 days after recall petition is certified]; Elec. Code, § 11381, subd. (a) [nominating petitions, containing requisite number of valid signatures, must be filed with Secretary of State no later than 59th day before election].) In this case, only 16 days were allowed. Petitioner suggests that replacement candidates must collect some 153,000 signatures in this abbreviated period, and the Chief Justice proposes an alternative standard—one percent of voters for Governor in the last election—that would still require 74,767 signatures.

Either alternative would risk unconstitutional interference with the ability of *any* replacement candidate to appear on the ballot, and thus with the electorate's right to cast ballots for a replacement in the event the incumbent is recalled. The Chief Justice cites no authority for the premise that potential replacement candidates may circulate nomination petitions before it is even clear a recall election will be held. Given the obvious policy considerations of allowing, indeed effectively requiring, such premature circulation, this is a matter best addressed directly by the Legislature.

For these reasons, there appears no clear error in the Secretary of State's decision to apply a lower voter-signature standard derived from the statutory procedures for primary election nominations. The statutory standard advocated by petitioner, which applies by its terms only to *independent* candidates who wish to appear on a general election ballot, has no greater inherent application to recall replacement elections than the procedure selected by the Secretary of State and his recent predecessors. The alternative standard proposed by the Chief Justice relies on a formula for recall elections that was removed from the Constitution in 1974 (compare Cal. Const., former art. XIII, § 1, ¶ 5, with Cal.

Const., art. II, § 15, subd. (a)), and from statutory law in 1976 (see Stats. 1976, ch. 1437, Const., art. II, § 15, subd. (a)), and from statutory law in 1976 (see Stats. 1976, ch. 1437, § 4, p. 6647, repealing Elec. Code, former § 27008, and adding Elec. Code, former § 27341). The Secretary of State cannot be faulted for failing to apply a standard that does not explicitly appear in current law.

Petitioner points to a statute declaring that the nomination procedures for primary election candidates "[do] not apply to . . . [r]ecall elections." (Elec. Code, § 8000, subd. (a).) But this language was adopted at a time when detailed procedures for the nomination of recall replacement candidates were already contained in the Constitution (see Elec. Code, former § 2500, subd. (a), as enacted by Stats. 1939, ch. 26, § 2500, p. 120; see also Cal. Const., former art. XXIII, § 1, ¶ 5), and it appears intended only to reflect that fact. In any event, the Secretary of State in a recall replacement election formally acts under Elections Code section 11381 rather than under section 8000 et seq.; the former refers to the latter only as a model.

The Chief Justice suggests the primary-election model is inappropriate, because a primary election is not a "regular election" that nominates a candidate "to . . . office." But a primary election is a regular election. (*O'Connor v. Superior Court* (1979) 90 Cal.App.3d 107, 113.) Moreover, the Chief Justice provides no persuasive indication that by use of the language "nominati[on] . . . to . . . office," section 11381 intended to preclude resort to the qualification procedures for primary elections.

In any event, to derive the 65-signature standard, the Secretary of State might also have referred to the nomination provisions for write-in candidates. These incorporate by reference the signature requirement for primary nominations, but contain no language indicating they are inapplicable to recall elections. (Elec. Code, § 8600, subd. (b).)

Petitioner does not expressly request a stay of

the election while his arguments are considered, but it would be necessary, as a practical matter, to issue such a stay in order to resolve his claim before the election was held. Having shown no strong likelihood of success on the merits, petitioner establishes no sufficient reason to stay the scheduled conduct of a duly qualified recall election, which the Constitution requires to proceed in expedited fashion. (Cal. Const., art. II, § 15, subd. (a).)

The current recall provisions contain ambiguities which require the Secretary of State to exercise his discretion. If the Legislature disagrees with the manner in which the Secretary of State has exercised his discretion, it is within the Legislature's province to specify other procedures.

Accordingly, the petition is denied.

Baxter, J., joined by Werdegar, J., Chin, J., Brown, J.

(2) For the reasons that follow, I would order respondent Secretary of State not to take further steps in preparation for the statewide recall election now set for October 7, 2003, pending determination of this petition. I would order respondent Secretary of State to show cause why he should not be directed to require candidates who wish to have their names printed on the ballot, to succeed the Governor in the event he is recalled, to submit a nomination petition signed by registered voters equal in number either to at least 1 percent of the total number of votes cast for that office at the preceding election (in this instance, 74,767 signatures), or 1 percent of all registered voters as of the date of the last election (here, 153,035).

The chaos, confusion, and circus-like atmosphere that have characterized the current recall process undoubtedly have been brought about in large measure by the extremely low threshold set by respondent for potential candidates to qualify for inclusion on the ballot to succeed to the office of Governor: the signatures of only 65 registered voters on a

nomination petition and payment of a $3500 filing fee. As explained below, there are very serious questions whether respondent Secretary of State has erred in determining that so few signatures of registered voters are required in order for a candidate to be placed on the recall election ballot. The substantial questions that are raised by this petition involve fundamental rights of all voters in the recall election, and of the potential candidates on the recall ballot, that could well affect the outcome of the recall election. These questions should be resolved before the election, rather than after the election in the event the recall is successful.

To understand the issue presented by the petition, it is helpful briefly to review the relevant aspects of the history of the recall procedure in California. This procedure was added to the California Constitution in 1911. As originally adopted, the constitutional recall provision explicitly provided, with respect to the requirements applicable to potential candidates, that "[a]ny person may be nominated for the office which is to be filled at any recall election by a petition signed by electors, qualified to vote at such recall election, *equal in number to at least 1 percent of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies*." (Cal. Const., former art. XXIII, § 1, par. 5, italics added.) Thus, as originally adopted, the constitutional provision itself clearly required a person to obtain a very substantial number of signatures in order to be placed on the recall ballot as a potential successor should the incumbent be recalled. That number was set at a relatively high figure in order to avoid having frivolous candidates appear on the recall ballot. (See Cal. Const. Rev. Comm., Background Study of Article XXIII (1968) pp. 30-31 [describing the requirement of obtaining signatures equal to at least 1 percent of the total votes cast at the last election as a "workable method [that] probably demands sufficient signatures, at least for statewide offices, to discourage frivolous filing for that office"].)

The constitutional recall provisions enacted in 1911 remained in effect without change until 1974. In 1974, pursuant to a proposal of the California Constitution Revision Commission to reorganize and streamline article XXIII, many of the details of the recall procedure that previously had been set forth in the Constitution were removed from the Constitution and enacted as statutes. One of the provisions that was moved from the Constitution to statute was the provision setting forth the number of signatures required to be submitted by potential candidates in a recall election. In 1974, the Legislature enacted former Elections Code section 27008 (Stats. 1974, ch. 233, § 6, p. 439) which, like its constitutional predecessor, required a potential candidate to submit a petition with signatures *equal in number to 1 percent of the total number of votes cast in the last election for the office at issue*. (All further statutory references are to the Election Code.)

In 1976, former section 27008 was repealed as part of a reorganization of the statutory recall provisions, and former section 27431 was enacted. (Stats. 1976, ch. 1437, § 4, p. 6447.) Former section 27431 did not directly address the number of signatures required of a potential candidate in a recall election, but provided in more general terms that "[n]ominations of candidates to succeed the recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article [that is, the article dealing with recall elections]." The legislative history of the 1976 legislation indicates that the enactment was intended to reduce the complexity of the recall statutes by consolidating the five major types of recall elections (school board, state, county, city and district elections) and by making the procedure for the nomination of candidates in recall elections similar to the nomination procedure in other elections. Nothing in the legislative history of the 1976 legislation, however, indicates that the Legislature specifically intended to drastically reduce, or indeed to

make any change in, the number of signatures that a potential candidate was required to submit in order to be placed on the ballot in a recall election. In 1994, the Elections Code was completely reorganized again, and the language of former section 27341 was moved without change to section 11381.

In light of this constitutional and statutory history and framework, the issue presented in this petition raises the following substantial questions:

(1) Why is respondent applying the 65-to-100 signature requirement set forth in Elections Code section 8062 and incorporated in Elections Code section 8600 to a gubernatorial recall election in light of the circumstances that 1) section 8062 applies to nomination papers for candidates seeking the nomination of a party in a *primary* election (whose purpose is to sort out candidates to appear in an ensuing *general* election) and 2) section 8600 applies to *write-in* candidates seeking simply to have votes in which their names have been handwritten upon a ballot *counted* in an election (and not to have their names placed on the ballot)? Why is respondent applying this requirement when the procedure here at issue involves inclusion of a candidate's name on the sole and final ballot for statewide election for office and the Legislature explicitly has directed in Elections Code section 8000 that "[t]his chapter [which applies to primary elections and contains section 8062] does *not* apply to: [¶] (a) Recall elections . . . ." (Italics added)

(2) Because the Elections Code no longer expressly addresses the number of signatures required (or the amount of the filing fee) for nominating candidates in a recall election, but instead simply directs that "nominations of candidates to succeed the recalled officer be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with [the Elections Code's article on recall elections]" (§ 11381), why should respondent select a requirement for placing a candidate's name on the ballot that is not applicable in *any* "regular

election" for nominating a candidate to the office of Governor and *is in direct conflict with the historic requirement* that candidates at a recall election submit signatures totaling one percent of the total number of votes cast for that office at the preceding election (see former Cal. Const., art. XXIII, § 1, par. 5; see also former section 27008)? Why should this approach prevail when there is *no* indication that at the time the more recent constitutional provisions were added or the ensuing statutory provisions adopted and amended, such a drastic change in procedures was contemplated, and in fact the opposite was contemplated? As noted above, the 1 percent requirement was viewed by the Constitution Revision Commission in 1968 as appropriate for statewide offices. The Report of the Joint Committee for the Revision of the Elections Code (which was incorporated into the Legislative Counsel's Report to the Governor on Assem. Bill No. 3467, which substituted former section 27341 for former section 27008 and for the first time added language identical to that found in present section 11381) states: "This bill provides that, in all cases, nominations will be made in the manner prescribed for regular elections for that office. . . . *There is no reason that the basic procedure for nominating candidates in [a] recall election should be any different from that in any other election*." (Italics added.)

In the alternative, why should respondent not employ the *current* signature requirement set forth in section 8400, which applies to independent candidates who seek to have their names placed on the ballot in a regular general election for Governor and provides that "[n]omination papers for a statewide office for which the candidate is to be nominated shall be signed by voters of the state *equal to not less in number than 1 percent of the entire registered voters of the state* at the time of the close of registration prior to the preceding *general* election" (italics added), rather than the 65-100 signature requirement that is applied (1) to *primary elections* (§ 8062) whose governing procedures explicitly do "not apply to . . .

[r]ecall elections" (§ 8000), and (2) to write-in candidates who seek to have ballots on which their names have been handwritten *to be counted* but not to have their names actually placed on the ballot (§ 8600 et seq.)? Independent candidates, like the candidates seeking to succeed to office in the event of a majority vote for recall, face no opponents in a primary election, and thus these two types of candidates are most similarly situated.

(3) Why under current recall procedures (§ 11381) could respondent not have made nomination papers available and instructed potential candidates for a gubernatorial recall election that they could collect nomination signatures well before the certification of the recall election, during the period in which the recall petition was being circulated, so as to provide sufficient time to collect the required number of signatures — 74,767 or, in the alternative, 153,035?

The foregoing questions are significant and should be resolved by this court at this time. As we recently stated in *Senate of the State of Cal. v. Jones* (1999) 21 Cal.4th 1142, 1153, 1154, "in an appropriate instance, preelection relief not only is permissible but is expressly contemplated," and "deferring a decision until after the election . . . may contribute to an increasing cynicism on the part of the electorate."

For example, in the event the recall is successful, a second-place finisher in a crowded field to succeed to the office of Governor might be able to establish that the presence of dozens of legally unqualified candidates made the difference in his or her losing by a percentage point or two, and that he or she readily could have met the requirement of the much larger number of signatures required for a lawful nomination. Similarly, any voter might be able to bring suit, claiming that the victor's placement on the ballot was invalid and affected the outcome of the election. (See *Gooch v. Hendrix* (1993) 5 Cal.4th 266, 285.) Should the vote to recall the Governor be successful, we may never know who would have been the

legitimate winner of the vote to succeed him, had lawful procedures been followed.

If we were to conclude after the recall election that the signature requirement for placement of candidates on the ballot set by respondent was inappropriate, we would have to nullify the election and cast our state into far more chaos and confusion than exists presently. Careful consideration and resolution of these issues prior to the election is well warranted despite the ensuing delay in the electoral process. By following this course of action, we would enhance rather than thwart the will of the people in exercising their right to vote at a properly conducted recall election.

As the United States Supreme Court observed in the electoral context, "A desire for speed is not a general excuse for ignoring equal protection guarantees." (*Bush v. Gore* (2000) 531 U.S. 98, 108.) Nor is it an excuse for ignoring the requirements of California law relating to the conduct of recall elections.

By the vote of a majority of this court, the October 7, 2003, recall election will go forward, despite the substantial doubts outlined above concerning the legal propriety of the procedures followed by respondent Secretary of State. The majority in essence conclude that respondent has done as best he can, given the ambiguities inherent in the Constitution's recall provision (Cal. Const., art. II, § 15) and in the related statutory provisions. Although respondent was obligated to make an initial assessment as to the proper meaning and application of the relevant constitutional and statutory provisions, it is the responsibility of this court to make the ultimate determination of these fundamental and crucial legal issues. The procedures that respondent has selected have been applied in the past only in the context of local rather than statewide recall elections, and never have been subject to judicial review. Because there appears to be a very substantial possibility that respondent has erred in his interpretation and application of the applicable provisions, this court should not permit the recall election to go forward until this

issue has been resolved after full briefing, argument, and adequate deliberation.

Finally, it is apparent that the provisions here at issue are ambiguous, and in some instances internally inconsistent, and deserve the attention of the Legislature, the Constitution Revision Commission, and the California Law Revision Commission.

George, C.J., joined by Moreno, J.

(3) My basis for denying the petition is this:

A writ of mandate may issue to compel a public official to perform a ministerial duty (Code Civ. Proc., § 1085, subd. (a); *Schmitz v. Younger* (1978) 21 Cal.3d 90, 92-93), or to exercise discretion (*State of South Dakota v. Brown* (1978) 20 Cal.3d 765, 779-780). But it will not issue to control the manner in which a public official, particularly a constitutional officer like the Secretary of State, exercises discretion. (See *Anderson v. Phillips* (1975) 13 Cal.3d 733, 737; *Lindell Co. v. Board of Permit Appeals* (1943) 23 Cal.2d 303, 315.)

The constitutional and statutory provisions governing recall elections vest discretion in the Secretary of State to adapt regular election procedures for use in recall elections, and in particular to adapt procedures for use in qualifying candidates to appear on the recall election ballot to replace the governor in the event the recall succeeds. Faced with a highly confusing statutory scheme, he has exercised his discretion by choosing the method that, in his professional judgment, is the most practical. This procedure was adopted by former Secretary of State March Fong Eu, a Democrat, and it was then followed by former Secretary of State Bill Jones, a Republican. It has been used in each of the four recall elections that has been held in the past ten years. I join in denying the petition because, in my view, it improperly seeks to control the Secretary of State's exercise of discretion. My colleagues have offered additional grounds for denying the petition; although these may well be persuasive, I see no reason to address them.

Moreover, any intervention by this court at

this time would interfere with the recall election as presently scheduled. The recall has qualified overwhelmingly for the ballot, and the wisdom of holding the recall election is not before this court. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 795.) To postpone the election would thwart the will of the People, who have spoken. Petitioner has argued in effect that the Secretary of State has made it *too easy* for candidates to qualify for the recall ballot. This court should not postpone the election just because there may be *too many* candidates on the ballot, giving the People too many choices.
Kennard, J.

S117921 DAVIS v. SHELLEY
Order filed

Petitioners' request for judicial notice is granted. The request of Kathleen M. Sullivan to appear as counsel *pro hac vice* is granted. The petition for writ of mandate and the request for stay are denied.

S116780 BINKS v. ORANGE COUNTY FIRE AUTHORITY
G029430 Fourth Appellate District, Division Three
Time extended to grant or deny review

to September 12, 2003

S116786 FRANCHISE TAX BOARD v. HYATT
C043627 Third Appellate District
Time extended to grant or deny review

to September 12, 2003

S116860 PEOPLE v. JACKSON
B155262 Second Appellate District,
B161907 Division Three
Time extended to grant or deny review

to September 17, 2003,

S116888 I. (J.), IN RE
H025059 Sixth Appellate District
Time extended to grant or deny review

to September 17, 2003

S116921
B165309 Second Appellate District, Division Six
CLARENDON NATIONAL INSURANCE v. WCAB
Time extended to grant or deny review

to September 18, 2003

S116930
B166131 Second Appellate District, Division Eight
OLD DOMINION FREIGHT LINES v. WCAB
Time extended to grant or deny review

to September 18, 2003

S116942
B161692 Second Appellate District, Division Seven
GAUL (PAUL) ON H.C.
Time extended to grant or deny review

to September 18, 2003

S116950
D039241 Fourth Appellate District, Division One
AMERICAN HOME v. FIDELITY NATIONAL
Time extended to grant or deny review

to September 18, 2003

S116962
G032322 Fourth Appellate District, Division Three
PRESTIGE v. S.C. (TORRES)
Time extended to grant or deny review

to September 18, 2003

S117050
B167194 Second Appellate District, Division One
RADILLO (JUAN J.), IN RE
Time extended to grant or deny review

to September 25, 2003

S024416
PEOPLE v. CLEVELAND AND VEASLEY
Extension of time granted

to September 10, 2003 to file appellant CLEVELAND'S reply brief. Extension is granted based upon Assistant State Public Defender Donald J. Ayoob's representation that he anticipates filing that brief by 9/10/2003. After that date, no further extension will be granted.

S025355 PEOPLE v. BRIDGES (EDWARD DEAN)
Extension of time granted

to October 7, 2003 to file respondent's brief. Extension is granted based upon Supervising Deputy Attorney General Rhonda L. Cartwright-Ladendorf's representation that she anticipates filing that brief by 10/7/2003. After that date, no further extension is contemplated.

S035348 PEOPLE v. SMITH (ROBERT LEE)
Extension of time granted

to October 2, 2003 to file appellant's opening brief. Extension is based upon counsel Scott F. Kauffman's representation that he anticipates filing that brief by 10/2/2003. After that date, no further extension will be granted.

S036864 PEOPLE v. GUERRA (JOSE F.)
Extension of time granted

to October 6, 2003 to file respondent's brief. After that date, only two further extensions totaling about 90 additional days are contemplated. Extension is granted based upon Deputy Attorney General Alene M. Games's representation that she anticipates filing that brief by 1/2/2004.

S037625 PEOPLE v. HARRIS (LANELL)
Extension of time granted

to October 7, 2003 to file appellant's opening brief. The court anticipates that after that date, only two further extensions totaling 120 additional days will be granted. Counsel is ordered to inform his or her assisting attorney or entity, if any, and any assisting attorney or entity of any separate counsel of record, of this schedule, and to take all steps necessary to meet it.

S042278

PEOPLE v. SAMUELS (MARY ELLEN)
Extension of time granted

to October 3, 2003 file appellant's reply brief. After that date, only one further extension totaling 60 additional days is contemplated. Extension is granted based upon counsel Joel Levine's representation that he anticipates filing that brief by early December 2003.

S048763

PEOPLE v. NELSON (SERGIO D.)
Extension of time granted

to October 14, 2003 to file appellant's opening brief. The court anticipates that after that date, only four further extensions totaling 240 additional days will be granted. Counsel is ordered to inform his or her assisting attorney or entity, if any, and any assisting attorney or entity of any separate counsel of record, of this schedule, and to take all steps necessary to meet it.

S050082

PEOPLE v. GEIER (CHRISTOPHER A.)
Extension of time granted

to October 7, 2003 to file appellant's opening brief. After that date, only six further extensions totaling about 330 additional days will be granted. Extension is granted based upon Assistant State Public Defender Barry P. Helft's representation that he anticipates filing that brief by 8/31/2004.

S108858

DURAN (OSCAR) ON H.C.
Extension of time granted

to September 2, 2003 for petitioner to file the reply to the informal response.

S109735
B149088 Second Appellate District, Division Seven

JULIAN v. HARTFORD UNDERWRITERS
Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file Respondent's Answer to the Amicus Curiae Brief filed by United Policyholders in support of Appellants is extended to and including September 24, 2003.

S111985
G028325 Fourth Appellate District, Division Three

PEOPLE v. PEREZ
Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file the Answer Brief on the Merits is extended to and including August 11, 2003. No further extensions of time will be granted.

S114708

PRIETO (ALFREDO) ON H.C.
Extension of time granted

to August 20, 2003 to file the informal response to the petition for writ of habeas corpus. Extension is granted based upon Deputy Attorney General Bradley A. Weinreb's representation that he anticipates filing that document by 8/20/2003. After that date, no further extension is contemplated.

S115738
B160462 Second Appellate District, Division Two

WARRICK v. S.C. (LOS ANGELES)
Extension of time granted

to September 22, 2003 for real party in interest to file the answer brief on the merits

S117639
C036415 Third Appellate District

UHRICH v. STATE FARM FIRE & CASUALTY
Extension of time granted

to September 1, 2003 for respondent to file an answer to the petition for review.

S027555

PEOPLE v. PRIETO (ALFREDO R.)
Order filed

Court's 150-day statement.

S107355
A096012 First Appellate District, Division Five

LAMUSGA, MARRIAGE OF
Order filed

Respondent's "Motion to Stay Trial Court Proceedings Set for Hearing on August 8, 2003" filed on August 4, 2003, is denied.

Bar Misc. 4186

IN THE MATTER OF THE APPLICATION OF THE COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA FOR ADMISSION OF ATTORNEYS

The written motion of the Committee of Bar Examiners that the following named applicants, who have fulfilled the requirements for admission to practice law in the State of California, be admitted to the practice of law in this state is hereby granted, with permission to the applicants to take the oath before a competent officer at another time and place:
(LIST OF NAMES ATTACHED TO ORIGINAL ORDER)